



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission

FROM: Doug Ellis
Director of Public Outreach

DATE: August 27, 2003

SUBJECT: Continuation of Rule-Making Process

The following amended rule WAC 390-05-400 and the series of new and amended enforcement rules under Chapter 390-37 WAC are presented as a continuation of the rule making activity undertaken at your July 29, 2003 meeting.

I. WAC 390-05-400 Changes in dollar amounts

RCW 42.17.690 requires the Commission to increase or decrease the dollar amounts established by Initiative 134 at the beginning of each even-numbered year.

RCW 42.17.690 Changing monetary limits.

At the beginning of each even-numbered calendar year, the commission shall increase or decrease all dollar amounts in this chapter based on changes in economic conditions as reflected in the inflationary index used by the commission under RCW 42.17.370. The new dollar amounts established by the commission under this section shall be rounded off by the commission to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since December 3, 1992.

The formula for accomplishing this inflationary adjustment is set out in statute. That formula mandates that each 1992 value be multiplied by the level of inflation as estimated by the Implicit Price Deflator (IPD). The product of this multiplication is the "target amount" for each dollar value. The actual adjusted amount adopted by the Commission must be within 10% of this target amount and "convenient for public understanding."

Attached is a mock up of WAC 390-05-400 showing the dollar amounts effective January 2002, the "target amount" as formulated by multiplying the IPD by the 1992

values, the top amount permissible (10% over the target amount) and the staff recommended amounts proposed for the 2004 contribution limits.

Staff has traditionally recommended adjusting the dollar amounts at the higher end of the range to reflect inflationary changes and the increasing costs of conducting election campaigns.

II. PDC Enforcement Hearing Rules – Chapter 390-37 WAC

In updating the PDC enforcement hearing (adjudicative proceeding) rules staff is proposing language, which would create 8 new rules and amend 19 current rules.

Two of the amended rules (WAC 390-37-063 and WAC 390-37-134) qualified for the expedited rule making process and will become effective during the third week of September.

The following is a listing of the proposed new rules and amendments. The actual proposed language is attached:

1. **PROPOSED NEW RULE: WAC 390-37-001 Enforcement Cases – Jurisdiction.**
2. **PROPOSED AMENDMENT: WAC 390-37-010 Enforcement procedures -- ~~Policy.~~
General.**
3. **PROPOSED AMENDMENT: WAC 390-37-030 Enforcement procedures -- ~~Status of citizen complainant and others~~ citizen complaints filed with the commission .**
4. **PROPOSED AMENDMENT: WAC 390-37-040 Enforcement procedures -- Procedures for filing citizen complaints with the commission.**
5. **PROPOSED NEW RULE: WAC 390-37-041 Enforcement procedures – Allegations submitted to the Attorney General's Office and/or prosecuting attorneys.**
6. **PROPOSED AMENDMENT: WAC 390-37-050 Enforcement procedures -- Respondent's notice of complaint.**
7. **PROPOSED AMENDMENT: WAC 390-37-060 Enforcement procedures -- Investigation of complaints -- Initiation of hearing (adjudicative proceeding).**
8. **PROPOSED AMENDMENT: WAC 390-37-070 Enforcement procedures -- Complaints ~~dismissible~~ dismissed by executive director.**
9. **PROPOSED AMENDMENT: WAC 390-37-090 Informal settlement -- Cases resolvable by stipulation prior to an enforcement hearing (adjudicative proceeding), or by other alternative dispute mechanisms.**
10. **PROPOSED AMENDMENT: WAC 390-37-100 Enforcement procedures -- Conduct of hearings (adjudicative proceedings).**
11. **PROPOSED NEW RULE: WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.**
12. **PROPOSED AMENDMENT: WAC 390-37-105 Prehearing conference -- Rule.**
13. **PROPOSED AMENDMENT: WAC 390-37-120 Enforcement hearings (adjudicative proceedings)-- Subpoenas -- Discovery -- Hearings. (1)**
14. **PROPOSED AMENDMENT: WAC 390-37-130 Enforcement hearings (adjudicative proceedings)-- Depositions and interrogatories -- Right to take.**
15. **PROPOSED AMENDMENT: WAC 390-37-132 Enforcement hearings (adjudicative proceedings) - Depositions and interrogatories -- Notice.**

16. PROPOSED AMENDMENT: WAC 390-37-136 Production of documents and use at hearing (adjudicative proceedings).
17. PROPOSED AMENDMENT: WAC 390-37-140 Brief enforcement hearings (adjudicative proceedings) -- Authority.
18. PROPOSED AMENDMENT: WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)-- Procedure.
19. PROPOSED AMENDMENT: WAC 390-37-144 Brief enforcement hearing adjudicative proceeding-- Administrative review procedures.
20. PROPOSED AMENDMENT: WAC 390-37-150 Reconsideration and judicial review of decisions.
21. PROPOSED NEW RULE: WAC 390-37-155 Electronic Filing Brief Enforcement Hearing Penalty Schedule.
22. PROPOSED NEW RULE: WAC 390-37-160 Statement of Financial Affairs (F-1) Penalty Schedule.
23. PROPOSED NEW RULE: WAC 390-37-165 Candidate Registration Statement (C-1)/Candidate Statement of Financial Affairs (F-1) Penalty Schedule.
24. PROPOSED NEW RULE: WAC 390-37-170 Lobbyist Monthly Expense Report (L-2) Penalty Schedule.
25. PROPOSED NEW RULE: WAC 390-37-175 Lobbyist Employer Report (L-3) Penalty Schedule.

Language Changes

One proposed amended rule, **WAC 390-37-150 Reconsideration and judicial review of decisions**, was modified from the original proposed language presented in July to add a statement allowing reconsideration of a final order if a review of an initial order was denied because of timing issues. The proposed new rules WAC 390-37-155 thru WAC 390-37-170, which were presented as place holders at the July meeting, were added to reflect the four penalty schedules that are currently being used in Brief Enforcement hearings.

Stakeholder Meeting

A stakeholder meeting on proposed rules was held on July 22, 2003. Over 100 interested parties were contacted, meeting information was posted on the PDC web site and TVW televised the meeting statewide.

One person attended the meeting and Mr. Robert Edelman provided feedback on **WAC 390-37-030 Enforcement procedures – citizens complaints filed with the commission**. See attached.

Action by the Commission. At this point, staff is requesting the Commission approve the proposed language in both WAC 390-05-400 and the 24 proposed new and amended rules in chapter 390-37 WAC. The proposed language will be filed with the Code Revisers Office and a public hearing scheduled for October 2003.